

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/516,073	ASAI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ellen S. Wood	1709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 November 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/29/2004; 07/19/2005; 09/06/2006; 03/12/2007.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi et al. (US 6,929,836).

In regards to claim 1, Kikuchi et al. disclose a multi-layered bottle manufactured by performing a biaxial stretch blow molding (abstract). The multi-layered bottle is formed from a thermoplastic resin that contains thermoplastic polyester (col. 6 lines 5-9). The thermoplastic resin can be used as an intermediate layer where it has gas barrier properties (col. 6 lines 45-46). The multi-layered bottle is manufactured based on a known biaxial stretch blow molding method (col. 8 lines 19-21). The multi-layered bottle is manufactured by stretching the multi-layered preform (col. 8 lines 49-50). The preform is manufactured by performing the compression molding of the composite molten material (col. 8 lines 22-25). The multi-layered preform is stretched in the longitudinal direction using a stretching rod and in the lateral direction using blown air by a stretch blow molding method at a stretching temperature (col. 8 lines 49-54). Thus, the container process includes bi-axial stretch blow molding steps and is stretched by a stretching rod, thus being stretched twice. A heat set may be performed if necessary (col. 8 lines 58-59).

In regards to claim 2, Kikuchi et al. disclose that the thermoplastic resin that may be used is polyethylene terephthalate (col. 6 lines 9-10). It is preferred that there is a blend of resins in which ethylene-terephthalate based thermoplastic polyester is blended (col. 6 lines 12-13). The ethylene-terephthalate can be subjected to copolymer polyester that contains a small quantity of ester units formed by naphthalene dicarboxylic acid (col. 6 lines 36-38). Another form of the resin can contain a xylylene group such as polymetaxylylene adipamido (col. 6 lines 45-49). These resins are subjected to the same stretching process as described in the previous paragraph.

In regards to claim 3, Kikuchi et al. a multi-layered synthetic resin container is formed that comprises a layer a plurality of intermediate layers which are made from gas barrier resin, recycled resin and heat-resistant resin (col. 3 lines 32-34). The multi-layered bottle is formed from a thermoplastic resin that contains thermoplastic polyester (col. 6 lines 5-9). The thermoplastic resin can be used as an intermediate layer where it has gas barrier properties (col. 6 lines 45-46). The multi-layered bottle is manufactured based on a known biaxial stretch blow molding method (col. 8 lines 19-21). The multi-layered bottle is manufactured by stretching the multi-layered preform (col. 8 lines 49-50). The preform is manufactured by performing the compression molding of the composite molten material (col. 8 lines 22-25). The multi-layered preform is stretched in the longitudinal direction using a stretching rod and in the lateral direction using blown air by a stretch blow molding method at a stretching temperature (col. 8 lines 49-54). Thus, the container process includes bi-axial stretch blow molding

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steps and is stretched by a stretching rod, thus being stretched twice. A heat set may be performed if necessary (col. 8 lines 58-59).

In regards to claim 4, Kikuchi et al. disclose that the thermoplastic resin that may be used is polyethylene terephthalate (col. 6 lines 9-10). It is preferred that there is a blend of resins in which ethylene-terephthalate based thermoplastic polyester is blended (col. 6 lines 12-13). The ethylene-terephthalate can be subjected to copolymer polyester that contains a small quantity of ester units formed by naphthalene dicarboxylic acid (col. 6 lines 36-38). Another form of the resin can contain a xylylene group such as polymetaxylylene adipamido (col. 6 lines 45-49). These form of the resins are subjected to the same stretching process as described in the previous paragraph.

In regards to claim 5, Kikuchi et al. disclose a five-layered structure that consists of OTP/GBR/RCR/GBR/OTP (col. 7 line 41). Where OTP indicates oriented thermoplastic resin, GBR indicates gas barrier resin, and RCR indicates recycled resin (col. 7 lines 24-30). Thus, the container contains two GBR layers that contain the gas barrier thermoplastic resin as described in the above paragraphs.

In regards to claims 6-7, Kikuchi et al. disclose the method of forming a multi-layered synthetic resin container that comprises a layer a plurality of intermediate layers which are made from gas barrier resin, recycled resin and heat-resistant resin (col. 3 lines 32-34). The multi-layered bottle is formed from a thermoplastic resin that contains thermoplastic polyester (col. 6 lines 5-9). The thermoplastic resin can be used as an intermediate layer where it has gas barrier properties (col. 6 lines 45-46). The

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multi-layered bottle is manufactured based on a known biaxial stretch blow molding method (col. 8 lines 19-21). The multi-layered bottle is manufactured by stretching the multi-layered preform (col. 8 lines 49-50). The preform is manufactured by performing the compression molding of the composite molten material (col. 8 lines 22-25). The molten material being of the various resins set forth in the application. The multi-layered preform is stretched in the longitudinal direction using a stretching rod and in the lateral direction using blown air by a stretch blow molding method at a stretching temperature (col. 8 lines 49-54). Thus, the container process includes bi-axial stretch blow molding steps and is stretched by a stretching rod, thus being stretched twice. A heat set may be performed if necessary (col. 8 lines 58-59).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen S. Wood whose telephone number is 571-272-3450. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm EST Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D: Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ellen S Wood  
Examiner  
Art Unit 1709

D. LAWRENCE TARAZANO  
PRIMARY EXAMINER  
